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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,317	07/31/2001	Hannu J. Jokinen	NOKM.011PA	3739
<div>7590 08/10/2007</div> <div>Hollingsworth & Funk, LLC Suite 125 8009 34th Avenue South Minneapolis, MN 55425</div>				
<div>EXAMINER</div> <div>TORRES, MARCOS L</div>				
<div>ART UNIT</div> <div>2617</div>				
<div>PAPER NUMBER</div>				
<div>MAIL DATE</div> <div>08/10/2007</div>				
<div>DELIVERY MODE</div> <div>PAPER</div>				

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/919,317
Filing Date: July 31, 2001
Appellant(s): JOKINEN ET AL.

Erin M. Nichols
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4-13-07 appealing from the Office action
mailed 3-23-06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: Claims 42 and 44 stands rejected under 35 U.S.C. 103(a) over Moles in view of Lager and further in view of Donovan.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Art Unit: 2617

5,809,413	Meche et al.	9-1998
5,365,572	Saegusa et al.	11-1994
6,658,231	Nakatsuyama	12-2003
6,757,544	Rangarajan et al.	6-2004
6,839,564	Sutinen et al.	1-2005
5,404,355	Raith	4-1995
6,636,502	Lager et al.	10-2003
6,282,421	Chatterjee et al.	8-2001
6,519,468	Donovan et al.	2-2003
5,819,177	Vucetic et al.	10-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 1, 3-4, 7-11, 19-22, 24, 28-29 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413).

As to claim 1, Moles discloses a method for initiating provisioning procedures for terminals operable in a mobile communications network (see col. 1, lines 9-14), comprising: automatically detecting an unprovisioned terminal in the mobile communications network; and providing a notification to a provisioning server to initiate the provisioning procedures for the unprovisioned terminal in response to the automatic detection of the unprovisioned terminal (see col. 6, lines 28-39; col. 8, lines 26-65). Moles discloses the method further comprising monitoring for a subscriber identifier identifying a particular subscriber and an equipment identifier identifying the unprovisioned terminal (see col. 6, lines 28-33; 40-42). Moles does not specifically disclose wherein automatically detecting an unprovisioned terminal comprises

determining that the subscriber and equipment identifiers do not collectively correspond to known subscriber and equipment affiliations. Meche discloses wherein automatically detecting an unprovisioned terminal comprises determining that the subscriber (UIM) and equipment identifiers (IMEI) do not collectively correspond to known subscriber and equipment affiliations (see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles method for enhanced security in the wireless communication system.

As to claim 3, Moles discloses the method wherein automatically detecting an unprovisioned terminal in the mobile communications network comprises: receiving an equipment identifier identifying the unprovisioned terminal (see col. 8, lines 35-40); and comparing the equipment identifier as an affiliated identifier pair to stored identifier pairs comprising known subscriber equipment affiliations (see col. 6, line 5 – col. 7, line 34; see col. 8, lines 49-52). Moles does not specifically disclose determining that the subscriber and equipment identifiers does not collectively correspond to known subscriber and equipment affiliation. In an analogous art, Meche discloses determining that the subscriber and equipment identifiers do not collectively correspond to known subscriber and equipment affiliation (see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9), thereby allowing finding a user by subscriber number. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles system for personal updated of the equipment.

As to claim 4, Moles discloses the method further comprising storing the stored identifier pairs in a Home Location Register (HLR) at the network (see col. 6, lines 40-41).

As to claim 7, Moles discloses the method wherein each of the known subscriber equipment affiliations comprises at least one equipment identifier for each subscriber corresponding to a subscriber identifier (see col. 6, line 5 – col. 7, line 34; col. 8, lines 49-52).

As to claims 8-9, 19 and 21, Moles discloses everything claimed as explained above except for the method receiving a subscriber identifier and an equipment identifier comprises receiving at least an International Mobile Subscriber Identity (IMSI) and an International Mobile Equipment Identity (IMEI); wherein comparing the affiliated identifier pair to stored identifier pairs comprises comparing the affiliated identifier pair comprising the IMSI and the IMEI to a plurality of stored IMSI/IMEI pairs. Meche discloses receiving a subscriber identifier and an equipment identifier comprises receiving at least an International Mobile Subscriber Identity (see col. 4 lines 40-54) and an International Mobile Equipment Identity (see col. 3, lines 16-18); wherein comparing the affiliated identifier pair to stored identifier pairs comprises comparing the affiliated identifier pair comprising the IMSI and the IMEI to a plurality of stored IMSI/IMEI pairs (col. 3, line 50 – col. 4, line 9). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these teachings to the Moles method for a fast and positive identification of the wireless devices.

As to claims 10 and 11, Moles discloses everything claimed as explained above except for the method further comprising availing the subscriber identifier and the equipment identifier to the mobile communications network in connection with a location update procedure. Meche discloses the method further comprising availing the subscriber identifier and the equipment identifier to the mobile communications network in connection with a location update procedure (see col. 4, lines 40-54). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings in the Moles method for an easier implementation.

As to claim 20, Moles discloses everything claimed as explained above except for the method wherein the subscriber identifier further comprises a Mobile Station ISDN/PSTN Number (MSISDN). Meche discloses wherein the subscriber identifier is IMSI and IMEI as previously indicated. Since the MSISDN is also another identifier it would be obvious to one of the ordinary skill in the art at the time of the invention to use any mobile identifier number for identification purposes.

As to claim 22, Moles discloses the method further comprising: generating provisioning data at the provisioning server, wherein generating the provisioning data comprises correlating the equipment identifier with corresponding predetermined provisioning data; and transmitting the predetermined provisioning data from the provisioning server to the unprovisioned terminal (see col. 7, line 60 – col. 8, line 13).

As to claim 24, Moles discloses the method further comprising generating provisioning data by the provisioning server, and transmitting the provisioning data from the provisioning server to the unprovisioned terminal (see col. 8, lines 49-59); receiving

an equipment identifier identifying the unprovisioned terminal and correlating the equipment identifier to a matching terminal type; and wherein generating the provisioning data comprises retrieving default provisioning data corresponding to the matching terminal type (see col. 7, line 60 – col. 8, line 13).

As to claim 28, Moles discloses a provisioning system for automatically provisioning terminals in a mobile communications network (see col. 1, lines 9-15), comprising: a network element capable of receiving a subscriber identifier and an equipment identifier (see col. 1, line 52 – col. 2, line 13); a detection module coupled to the mobile communications network to monitor for at least an equipment identifier transmitted from an unprovisioned terminal; a provisioning trigger module coupled to the detection module to generate a provisioning notification based on the equipment identifier indicating that the unprovisioned terminal has been introduced on the mobile communications network (see col. 6, lines 29-33); and a provisioning server coupled to receive the provisioning notification and to instigate provisioning procedures with the unprovisioned terminal in response to the provisioning notification (see col. 7, lines 12-20). Moles does not specifically disclose a network element capable of receiving a subscriber identifier and an equipment identifier. In an analogous art, Meche discloses a network element capable of receiving a subscriber identifier and an equipment identifier and to compare an identifier group comprising the subscriber and equipment identifier known subscriber-equipment groups (see col. 4 lines 22-54; col. 7, line 22 - col. 8, line 36), thereby allowing finding a user by subscriber number. Therefore, it would have

been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles system for personal updated of the equipment.

As to claim 29, Moles discloses the provisioning system wherein the detection module is integrated with an existing network element of the mobile communications system (see col. 8, lines 31-40).

As to claim 45, Moles discloses the provisioning system wherein the provisioning server comprises: a phone capability database to store mobile terminal models corresponding to each of a plurality of available equipment identifiers; a configuration messages database to store provisioning data for each mobile terminal model; and a processor configured to obtain the provisioning data for the unprovisioned terminal by retrieving the provisioning data for the mobile terminal model corresponding to the equipment identifier of the unprovisioned terminal (see col. 6, line 53 – col. 8, line 59).

Regarding claim 46 is the corresponding apparatus claims of method claims 1. Therefore, claim 46 is rejected for the same reason shown above.

As to claim 47, Moles discloses a provisioning system for automatically provisioning terminals in a mobile communications network, comprising: means for monitoring for a subscriber identifier identifying a particular subscriber and an equipment identifier identifying an unprovisioned terminal; means for automatically detecting the unprovisioned terminal in the mobile communications network, and means for providing a notification to a provisioning server to initiate a provisioning procedure for the unprovisioned terminal in response to the automatic detection of the unprovisioned terminal (see col. 6, line 5 – col. 8, line 59). Moles does not specifically discloses

including means for determining that the subscriber and equipment identifiers do not collectively correspond to known subscriber and equipment affiliations. Meche discloses wherein automatically detecting an unprovisioned terminal comprises determining that the subscriber and equipment identifiers do not collectively correspond to known subscriber and equipment affiliations (see col. 5, line 22 - col. 8, line 36). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles method for enhanced security in the wireless communication system.

Regarding claim 48 is the corresponding apparatus claim of system claim 47. Therefore claim 48 is rejected for the same reasons shown above.

5. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) as applied to claims 2-4, 7-11, 19-22, 28-29 and 47 above, and further in view of Saegusa (U.S. Patent US005365572A).

As to claims 12 and 13, Moles discloses everything claimed as explained above except for the method wherein automatically detecting further comprises recognizing that the affiliated identifier pair does not match any of the stored identifier pairs in response to the comparison. In an analogous art, Saegusa discloses the method wherein automatically detecting further comprises recognizing that the affiliated identifier pair does not match any of the stored identifier pairs in response to the comparison (see col. 5, lines 41-55). Therefore, it would have been obvious to one of

the ordinary skill in the art at the time of the invention to use this old technique for the simple purpose of logic decisions.

6. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) as applied to claims 2-4, 7-11, 19-22, 28-29 and 47 above, and further in view of Nakatsuyama (U.S. Patent US006658231B2).

As to claims 15-16 and 17, Moles discloses the method wherein: receiving the subscriber identifier and the equipment identifier comprises periodically monitoring the affiliated identifier pair at the provisioning server through a signaling channel; comparing the subscriber identifier and the equipment identifier comprises comparing the affiliated identifier pair to stored identifier pairs at the provisioning terminal; and providing a notification to the provisioning server comprises providing the notification internally at the provisioning server(see col. 6, line 1-col. 7, line 60). Moles does not specifically disclose continuously monitoring. In an analogous art, Nakatsuyama discloses continuously monitoring an identifier (see col. 8, lines 45-46), thereby allowing a faster response of the system. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique to the Moles method for faster providing.

7. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) as applied to claims 2-4, 7-11, 19-22, 28-29 and 47 above, and further in view of Rangarajan (U.S. Patent US006757544B2).

As to claim 26, Moles discloses the method further comprising to notify the unprovisioned terminal of the transmission of the provisioning data (see col. 7, lines 49-51). Moles does not specifically disclose using Wireless Application Protocol (WAP) push message. In an analogous art, Rangarajan discloses using Wireless Application Protocol (WAP) push message to send data (see col. 6, lines 47-50). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use any available protocol for an easier implementation of the service and compatibility.

8. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) and further in view of Rangarajan (U.S. Patent US006757544B2) as applied to claims 26 above, and further in view of Sutinen (U.S. Patent US006839564B2).

As to claim 27, Moles discloses the method further comprising to notify the unprovisioned terminal of the transmission of the provisioning data (see col. 7, lines 49-51). Moles does not specifically disclose using SyncML-based protocol. In an analogous art, Sutinen discloses wherein transmitting of data between the terminal and the server is using SyncML-based protocol (see col. 1, lines 43-48). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching for an easier implementation of the service and compatibility.

9. Claims 5, 30, 32-34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles in view of Meche and in view of Raith (U.S. Patent US005404355A).

As to claims 5 and 30, Moles discloses the method/system of comparing the affiliated identifier pair to the stored identifier (see col. 8, lines 49-52). Moles does not specifically disclose comparing the affiliated identifier pair to the stored identifier pairs at a Mobile Switching Center (MSC). Raith discloses comparing the affiliated identifier pair to the stored identifier pairs at a Mobile Switching Center (see col. 2, lines 40-42). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles method for faster response.

As to claim 32, Moles discloses the provisioning system further comprising a database to store the known subscriber-equipment groups (see fig. 3, item 310).

As to claim 33, Moles discloses the provisioning system wherein the database comprises a Home Location Register (HLR) operable in the mobile communications system, wherein each record of the HLR comprises a subscriber data (see col. 6, lines 40-43). Moles also disclose to store a subscriber identity field to store the subscriber identifier; and equipment identify field to store the equipment identifier (see col. 6, line 53 – col. 8, line 25). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use more memory in the HLR for the simple purpose of saving money in resources.

As to claims 34 and 36, Moles discloses the provisioning system wherein the provisioning trigger module is integrated with the MSC to generate the provisioning notification (see col. 6, lines 5-27).

10. Claims 6, 38-41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles in view of Meche and further in view of Lager (U.S. Patent US006636502B1).

As to claims 6, 38-39, 41 and 43, Moles disclose the method/system of comparing the affiliated identifier pair to the stored identifier pairs (see col. 8, lines 49-52). Moles does not specifically disclose comparing the affiliated identifier pair to the stored identifier pairs at a Serving GPRS Support Node (SGSN). Lager discloses comparing the affiliated identifier pair to the stored identifier pairs at a Serving GPRS Support Node (see col. 12, line 65 – col. 13, line 12). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles method for faster response.

As to claim 40, Moles discloses the provisioning system wherein the database comprises a Home Location Register (HLR) operable in the mobile communications system, wherein each record of the HLR comprises a subscriber data (see col. 6, lines 40-43). Moles also discloses to store a subscriber identity field to store the subscriber identifier; and equipment identify field to store the equipment identifier (see col. 6, line 53 – col. 8, line 25). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use more memory in the HLR for the simple purpose of saving money in resources.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) as applied to

claims 2-4, 7-11, 19-22, 28-29 and 47 above, and further in view of Chatterjee (U.S. Patent 6,282,421).

As to claim 14, Moles discloses everything claimed as explained above (see claim 3) except for the method further comprising providing the subscriber identifier and the equipment identifier by the unprovisioned terminal upon power up of the unprovisioned terminal. Chatterjee discloses the method further comprising providing the subscriber identifier and the equipment identifier by the unprovisioned terminal upon power up of the unprovisioned terminal (see col. 4, lines 20-29). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching for a faster providing.

12. Claims 18 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles (U.S. Patent US006615038B1) in view of Meche (U.S. Patent 5,809,413) as applied to claims 2-4, 7-11, 19-22, 28-29 and 47 above, and further in view of Donovan (U.S. Patent US006519468B1).

As to claim 18, Moles discloses the method wherein creating the notification message comprises including the subscriber and equipment identifiers (see col. 6, line 5 – col. 8, line 65). Moles does not specifically disclose creating a Short Messaging Service (SMS) and a user data field. Donovan discloses creating a Short Messaging Service (SMS) and a user data field (see col. 1, lines 48-56). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching for an easier implementation of the service.

As to claim 35, Moles discloses to receive and transmit the provisioning notification message including at least the subscriber identifier and the equipment identifier (see col. 6, line 5 – col. 7, line 34; col. 8, lines 49-52). Moles does not specifically disclose the provisioning system further comprising a Short Message Service Center (SMSC) to receive and to transmit the provisioning notifications from the MSC. Donovan discloses the provisioning system further comprising a Short Message Service Center (SMSC) to receive and to transmit the provisioning notifications from the MSC (see col. 5, lines 30-34). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these techniques to the Moles system for an easier implementation.

13. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moles in view of Meche as applied to claims 2, 8-13, 15-17, 19-22, 26-27 and 47 above, and further in view of Vucetic (U.S. Patent US005819177A).

As to claim 23, Moles discloses the method/system wherein automatically transmitting the notification to the provisioning server through the mobile communications network comprises (see col. 6, lines 33-39; col. 8, lines 26-65). Moles does not specifically disclose initiating an alarm at a network management system (NMS); forwarding the notification to the NMS. Vucetic discloses initiating an alarm at a network management system (NMS); forwarding the notification to the NMS (see col. 5, lines 29-31). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique for a reliable method.

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moles in view of Meche and further in view of Raith as applied to claims 5, 30-34 and 36 above, and further in view of Vucetic (U.S. Patent US005819177A).

As to claim 37, Moles discloses the method/system wherein automatically transmitting the notification to the provisioning server through the mobile communications network comprises (see col. 6, lines 33-39; col. 8, lines 26-65). Moles does not specifically disclose initiating an alarm at a network management system (NMS); forwarding the notification to the NMS. Vucetic discloses initiating an alarm at a network management system (NMS); forwarding the notification to the NMS (see col. 5, lines 29-31). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique for a reliable method.

15. Claims 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moles in view of Lager as applied to claims 6, 38-41 and 43 above, and further in view of Donovan.

As to claim 42, Moles discloses the provisioning system further comprising to transmit and receive the provisioning notification to the provisioning server, message including at least the subscriber identifier and the equipment identifier (see col. 6, line 5 – col. 8, line 59). Moles does not specifically disclose a Short Message Service Center (SMSC) or SGSN, and wherein the provisioning notification is dispatched as a Short Messaging Service (SMS). Lager discloses using a Serving GPRS Support Node (see col. 12, line 65 – col. 13, line 12). Donovan discloses the provisioning system further comprising a Short Message Service Center (SMSC) to receive and to transmit the

provisioning notifications from the MSC (see col. 5, lines 30-34). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add these techniques to the Moles system for an easier implementation.

As to claim 44, Moles discloses to transmit the provisioning notification to the provisioning server in response thereto (see col. 6, line 5 – col. 8, line 59). Moles does not specifically disclose the provisioning system further comprising a Network Management System (NMS) to receive the provisioning notification from the SGSN as an NMS alarm signal, and Lager discloses using a Serving GPRS Support Node (see col. 12, line 65 – col. 13, line 12). Vucetic discloses initiating an alarm at a network management system (NMS); forwarding the notification to the NMS (see col. 5, lines 29-31). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this technique for a reliable method.

(10) Response to Argument

As to argument A that Moles fails to teach the limitation “providing of a notification to initiate provisioning procedures in response to the automatic detection of an unprovisioned terminal, because Moles notification is sent during or subsequent to provisioning. Moles discloses in col. 6, lines 28-33: “when an unprovisioned mobile station, such as MS 112, accesses wireless network 100 (via BS 101), then BS 101 and/or MSC 140 using the handset data in HLR 155, identifies MS 112 as an unprovisioned handset and performs an over-the-air (OTA) service provisioning of MS 112.” The initial determination that the terminal is unprovisioned is based on the data of the HLR, which have to inform to whomever is going to do the provisioning, in the

instant case the provisioning server. From the above-recited section is clear than an automatic detection of an unprovisioned terminal is done and a message is sent to inform to the server to do the provisioning, since the server does not even know who is connected to the system if is not told so. However, for the sake of simplicity the examiner will explain each of the above steps:

1. Mobile station accesses the wireless network using base station (see col. 6, lines 29-30).
2. Base station (or MSC) automatically using the HLR data identifies an unprovisioned terminal (see col. 6, lines 30-32).
3. The HLR establish connection to the provisioning server (sending a notification see col. 6, lines 41-42).
4. The provisioning server does provision the terminal (see col. 6, lines 32-33, 42-44).

Appellant also alleges that Moles fails to disclose that the provisioning procedure that is automatically triggered after a determination has been made that an unprovisioned terminal exists within the network and that such provisioning is initiated in response to the automatic detection; because Moles discloses that provisioning is either triggered spontaneously or in response to a mobile station upgrade request. Moles does teach that mobile station controller 305 is either triggered spontaneously or in response to a mobile station upgrade request receiving mobile station upgrade files (sections cited by the appellant); however that is not limitation relied by the examiner, step 405 disclose the limitation of doing the initial provisioning (see col. 8, lines 30-32; col. 6,

lines 28-32). Therefore, in addition of periodical updates Moles also disclose provisioning in response to the detection of an unprovisioned terminal.

Additionally appellant alleges that the section of column 6, lines 28-33 which according to the appellant are discussed in greater details in col. 7, lines 24-28, 60-66; col. 8, lines 1-13 contrast with the claimed invention, because provisioning procedure begins when software configuration files are requested and subsequently stored. The above characterization is misplaced; examiner cannot find any support that states that the provisioning start in those sections. Those section recites that periodically the server is going to update the configuration files and is going to update terminals that require those updates, but it does not says that provisioning procedure start there. To know when the provisioning procedure begins can be done by looking at a fig. 4. First step is 405 the mobile station o terminal is authenticated by wireless network and service provisioning occurs. Therefore, the arguments are moot.

In the subsequent paragraph appellant states that while Moles first locates mobile station software configuration files that may be available from respective mobile station manufacturers, the claimed invention instead automatically detects mobile station in need of provisioning; as already shown in the above paragraph provisioning start in step 405. In other words Appellant is stating that step 410 is done before step 405. Please see fig. 4 for the proper sequence of the steps. As to the argument that while Moles attempts to match any mobile station previously received software configuration files, the claimed invention instead issues a notification to a provisioning server to provision the automatically detected unprovisioned terminal; appellant states

that step 425 is before step 405. Again, please see fig. 4 for the proper sequence of the steps.

Regarding appellant argument that Moles does not teach detecting an unprovisioned terminal using a subscriber identifier and an equipment identifier; Moles discloses that when the mobile station access the communication network the HLR will authenticate the mobile station (see col. 6, lines 28-33, 40-42; col. 8, lines 30-31). At least one of the subscriber identifier or equipment identifier is need to accomplish the authentication and most like will include both of them. But Moles does not enter in the details of the authentication because they are common and well known in the art. Because of that the examiner relied in Meche, this reference teaches the common and well-known technique of using the subscriber identifier and equipment identifier for authentication and communication with the mobile terminal (see col. 3, line 50 – col. 4, line 9). Thereby, the combination Moles and Meche disclose all the limitation presented above.

Appellant states that Meche is silent regarding automatic detection of unprovisioned terminal by determining that subscriber and equipment identifier do not collectivity correspond to known subscriber and equipment affiliation; Meche is only relied for determining that subscriber and equipment identifier do not collectivity correspond to known subscriber and equipment affiliation (see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9) and Moles for automatic detection of unprovisioned terminal (see col. 6, lines 28-33). Thereby, the combination Moles and Meche disclose all the limitation presented above.

In the subsequent paragraph appellant gives an explanation of the Meche reference and states that because Meche is silent regarding provisioning he cannot teach the limitation of automatic detection of unprovisioned terminal by determining that subscriber and equipment identifier do not collectively correspond to known subscriber and equipment affiliation; again, Meche is only relied for determining that subscriber and equipment identifier do not collectively correspond to known subscriber and equipment affiliation (see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9) and Moles for automatic detection of unprovisioned terminal (see col. 6, lines 28-33). Thereby, the combination Moles and Meche disclose all the limitation presented above.

Appellant also alleges that Meche does not teach determining whether this subscriber/equipment identifier group correspond to known subscriber/equipment identifier groups, because Meche only associates a device with a particular UIM but does teach or suggest comparing the collective association of subscriber/equipment; first is noted that on claim the appellant use the term affiliations rather than groups; Meche discloses comparing both (see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9).

The final argument regarding section A is directed to the motivation of the references. As previously stated, in Moles disclose performing the authentication, and based on that the mobile station is identified as an unprovisioned mobile terminal (see col. 6, lines 28-33; 40-42). Meche discloses using the UIM and IMEI in the communication with the network and monitoring for changes between UIM and IMEI

(see col. 7, line 23 - col. 8, line 36; col. 4 lines 40-54; col. 3, line 50 – col. 4, line 9). The combination of these two references would be desirable because the combination of monitoring both identifiers would create a secure way of authentication by monitoring changes in the device and the user account as suggested by Meche. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add this teaching to the Moles method for enhanced security in the wireless communication system.

As to argument B, the appellant repeats the same previous arguments regarding Moles and Meche and in addition question the motivation for Saegusa reference; for the arguments directed to Moles and Meche please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. The Saegusa reference shows the common and well-known technique of comparing a variable and if does not match the expected result doing designated function, so the system would know what to do in such situation. It is considered that using such logic is within one of the ordinary skill in the art at the time of the invention of doing simple logic in case that the variable is something different than the desired value. Thereby, making the system more reliable.

As to argument C, the appellant repeats the same previous arguments regarding Moles and Meche and in addition question the motivation for Nakatsuyama; for the arguments directed to Moles and Meche please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. The Nakatsuyama reference shows the common and well-known

technique of continuously monitoring a variable (identifier). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to continuously monitor an Identifier (variable) for identifying designated particular information promptly (see col. 1, lines 16-17) and providing a faster service.

As to argument D, the appellant repeats the same previous arguments regarding Moles and Meche and in addition question the motivation for Rangarajan; for the arguments directed to Moles and Meche please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. The Rangarajan reference teaches using the common and well-known Wireless Application Protocol (WAP). It is noted that it is within the knowledge of one of the ordinary skill to choose a common existing protocol for the simple purpose of compatibility. The combination of the Moles, Meche and Rangarajan will provide a mobile station with WAP protocol, and it would be desirable to a user to choose a popular protocol available for the simple purpose of compatibility with existing devices.

As to argument E, the appellant repeats the same previous arguments regarding Moles and Meche and in addition question the motivation for Sutinen; for the arguments directed to Moles and Meche please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. Again Sutinen is used to show the use of a common and well-known protocol. It is noted that it is inherently necessary to use a protocol for the communication between the mobile device and the system, and is within the knowledge of one of the ordinary skill to choose a common existing available protocol for the simple purpose of

compatibility with existing protocol and devices. Appellant alleges that Sutinen is directed to synchronizing database information and not related to provisioning; the above allegation is misplaced, provisioning means to provide telecommunications services to a user. This includes providing all necessary hardware, software, and wiring or transmission devices. Thereby synchronizing is part of the provisioning services. Moreover, the synchronization of Sutinen is directed to update the information in a mobile device from a server (see fig. 1, col.1, lines 43-45) and Moles is also directed to update the terminal with the information of the provisioning server (see col. 6, lines 40-42). Thereby, both references are analogous and directed to the same field of endeavor of updating the mobile device with their respective data.

As to argument F appellant alleges the examiner acknowledged that the rejection of Moles and Raith is improper, however appellant does not present any evidence were the examiner acknowledged this. Claims 5, 30, 32-34 and 36 depends on Moles in view of Meche, and the rejection is based on Moles, Meche and Raith as known to the appellant. The omission of Meche was a typographical error that would have been fixed earlier if appellant had raised the issue earlier. Appellant also alleges that Raith does not disclose comparing an affiliated identifier pair, Moles discloses comparing at least one as previously shown and Raith discloses comparing the MIN and ESN (see col. 2, lines 27-43; col. 4, lines 4-12). Appellant also question the motivation in Raith like every single combination in the present application, Raith discloses validating (authenticating) the phone (col. 4, lines 4-12) (Also Moles discloses the same as previously shown above). Thereby would have been obvious to one of the ordinary skill in the art to

validate the phone in MSC (since the records are in the HLR which is part of the MSC (see fig. 1 of Meche items 30,35)) which would reduce unauthorized use thereby saving resources and money that otherwise could have been wasted with unauthorized use.

Regarding argument G, appellant repeats the same previous arguments of sections A and F, also in addition question the motivation for Lager; for the arguments previously discussed please see the above paragraphs in section A and F such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. As to the motivation of combining the Lager reference can be found in col. 3, lines 9-14, which states that the SGSN is going to perform the same security function of MSC in the new GSM GPRS standard. Thereby it would have been obvious tone of the ordinary skill in the art at the time of the invention to adapting Moles modified system to the GSM GPRS standard.

Regarding argument H, appellant repeats the same previous arguments of section A, for the arguments previously discussed please see the above paragraphs in section A.

Regarding argument I, appellant repeats the same previous arguments of section A, also in addition question the motivation for Donovan; for the arguments previously discussed please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. As previously stated provisioning means to provide telecommunications services to a user. This includes providing all necessary hardware, software, and wiring or transmission devices. Thereby, provisioning includes providing a mobile terminal with services such

as short message service. The combination of the modified Moles system with Donovan will create a mobile station with the using the service of the common and well-known short message service for transferring data. Therefore, the references are analogous and properly combinable and the combination would have yielded predictable result to one of the ordinary skill in the art at the time of the invention.

Regarding argument J, appellant repeats the same previous arguments of section A, also in addition question the motivation for Vucetic; for the arguments previously discussed please see the above paragraphs in section A such that the combination of Moles and Meche teaches all the claimed limitations as set forth above. For this argument appellant states that the alarm is unrelated to provisioning an the wireless terminal (not the NMS) generates the alarm, first Vucetic is directed to provisioning (see col. 3, lines 7-15); second, the claim nowhere limits what is a network management system or what a network management system includes. It would have been obvious to one of the ordinary skill in the art to provide an alarm in the modified Moles system when a given condition exists that needs attention, thereby permitting to deal or fix with the condition and improve the reliability of the system. Therefore, the claims are analogous and properly combinable.

Regarding argument K, appellant repeats the same previous arguments of sections A, J and F, also in addition question the motivation for Vucetic; for the arguments previously discussed please see the above paragraphs in sections A, J and F such that the combination teaches all the claimed limitations as set forth above..

Regarding argument L, appellant repeats the same previous arguments of sections A, G and I, also in addition question the motivation for Donovan; for the arguments previously discussed please see the above paragraphs in sections A, G and I such that the combination teaches all the claimed limitations as set forth above..

Finally, regarding applicant argument directed to claim 44, this claim is presented with claim 42 in page 17 of the office action mailed 3-23-06. Moreover, appellant in the remarks filed 8-22-05 in page 23 acknowledge that claim 44 was rejected with the same statutory basis as claim 42, but did not raise any issue to correct the typographical error that would have been fixed earlier if appellant had raised the issue earlier.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marcos Torres/


Marcos Torres

Patent Examiner AU 2617

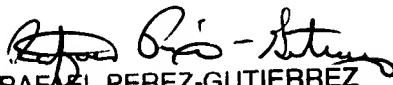
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8/7/02